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| 09/810,889      | 03/16/2001  | Peter Zhu            | JOHNA.060A          | 7456             |

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EXAMINER

CROSS, LATOYA I

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1743

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/810,889

Applicant(s)

ZHU ET AL

Examiner

LaToya I. Cross

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 11, 13 and 34-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office Action is in response to Applicants' amendments filed on January 13, 2005. Claims 1-13 and 34-38 are pending.

#### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-8, 10, 11, 13, 34 - 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Opp in view of Iannacone et al and Applicants' admitted prior art on page 1, lines 10-28 of the specification.

Opp teaches a process and kit for the determination of concentrations of aldehydes. Specifically, Opp teaches employing a particular amount of a reagent to react with a point of interest amount of an aldehyde in a sample. Then Opp teaches employing a second reagent to react with any left over aldehyde in the sample to produce a color change, indicating an amount of aldehyde in excess of the point of interest amount of aldehyde in the sample. In examples I and II, Opp demonstrates how the disclosed method can be used to determine amounts of aldehyde less than, and in excess of the point of interest, with development of a purple color, or no development of a purple color.

Opp however, does not teach the particular reactants claimed, namely MBTH and an oxidant. Iannacone, et al., as well as applicants' admitted prior art, teach a two component reactant system for testing of aldehydes, namely MBTH and an oxidant (see column 4, lines 7-9, of Iannacone, et al., specification, lines 10-14). Iannacone, et al. specifically teach that color formation varies depending on the concentration of aldehyde in the sample (column 5, lines 32-36), with green color developed at no aldehyde, changing to shades of blue upon increasing concentrations of aldehyde. It would have been obvious to one having ordinary skill in the art to modify the method of Opp to employ the reagent system of Iannacone, et al. and applicants' admitted prior art for the reasons given by Iannacone, et al. and applicants – namely stability and high sensitivity of the MBTH/oxidant reagent system. As to the development of two different colors, depending on the concentration of the aldehyde with respect to the concentration of the point of interest, it would appear that such a modification would be within the skill of the artisan. Opp teaches distinct responses, development of color and absence of such development representing different sides of the point of interest (presumably, the point of interest must be with either of these responses). Iannacone et al. teach that the color developed varies with respect to the concentration of aldehyde. It would be within the skill of the ordinary artisan to determine, through routine experimentation, a first color representing an excess of

aldehyde and a second color, representing less than a point of interest of aldehyde in the modified method of Opp.

With respect to claims 6 and 7, Opp teaches addition of both reactants simultaneously, but provides for sequential reaction by the form of each reactant. With respect to claim 7, it would have been obvious to one having ordinal skill in the art to modify the modified method of Opp to provide for sequential introduction of the reactants in order to avoid early dissolution of the second reactant, which may lead to improper color development.

With respect to claims 10, 11 and 13, both Opp and Iannacone et al. teach separation of the two reagents to avoid premature reaction. Both incorporate one reagent into a solid and one in solution. Iannacone et al. specifically teach putting the MBTH on an adsorbent material. It would have been obvious to one having ordinary skill in the art to separate the two reagents by providing one on an adsorbent material in order to avoid premature reaction of the reagents, as well as stability and ease of handling.

### *Response to Arguments*

3. Applicant's arguments filed January 13, 2005 have been fully considered but they are not persuasive. Applicants argue that the prior art fails to teach reacting excess

MBTH left over from the first reaction with azine. At column 4 of Iannacone et al, beginning at line 10, the reference explains that aldehyde reacts with MBTH to form an azine; some MBTH is oxidized to a reactive cation which combines with the azine to form a blue dye. Thus, Iannacone et al teach that the excess MBTH is oxidized and reacts with the azine to form a blue dye. Applicants' argue that there's no suggestion for the this limitation, where in fact, Iannacone et al teach exactly what Applicants state is not suggested.

*Allowable Subject Matter*

4. Claims 9 and 12 are allowed.

The prior art of record does not teach or fairly suggest employing the particular membranes recited in the measurement of aldehydes in a two reactant process.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 571-272-1256. The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LIC

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700